

Customs response shall be submitted, if available;

(8) The number assigned to the importer's protest;

(9) A statement that the intervenor is the exporter or producer of the merchandise that was the subject of the adverse marking decision being protested by the importer and, if the intervenor is the exporter, a statement that it maintains sufficient records to enable Customs to evaluate the merits of its claim(s) regarding the adverse marking decision; and

(10) If the intervenor prefers that the principle of confidentiality set forth in § 181.121 of this part be applied to the information submitted under this section, a statement to that effect. If no such statement is included in the letter, the intervention and information submitted in connection therewith shall be subject to the same treatment as that provided in the case of requests by all interested parties for consolidation of protests as set forth in § 174.15(b)(1) of this chapter.

(d) *Effect of Intervention.* The rights of the intervenor under this section are subordinate to the importer's protest rights. Accordingly, intervention by an exporter or producer of merchandise will not affect the procedures under part 174 of this chapter, and the importer's elections concerning accelerated disposition and application for further review of the protest will govern how the protest is handled and how the intervention is considered. If the importer withdraws or settles the protest, the exporter or producer has no right to continue the intervention action.

(e) *Action by port director.* If final administrative action has already been taken with respect to the importer's protest at the time the intervention is filed, the port director shall so advise the exporter or producer and, if the importer has filed a civil action in the Court of International Trade as a result of a denial of the protest, the port director shall advise the exporter or producer of that filing and of the exporter's or producer's right to seek to intervene in such judicial proceeding. If final administrative action has not been taken on the protest, the port director shall forward the intervention

letter to the Customs office which has the importer's protest under review for consideration in connection with the protest.

(f) *Final disposition.* The intervenor shall be notified in writing of the final disposition of the protest. If the protest is denied in whole or in part, the intervenor shall be furnished a copy of the notice given to the importer under § 174.29.

§ 181.116 Petition regarding adverse marking decision.

(a) *Right to petition.* If the importer does not protest an adverse marking decision in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), and part 174 of this chapter, the exporter or producer of the merchandise which was the subject of the adverse marking decision may file a petition with Customs requesting reconsideration of the decision. The petition may not be filed until after the importer's time to protest the adverse marking decision has expired (see § 174.12(e) of this chapter for the time limits for filing protests). If the importer filed a protest upon which final administrative action has been taken, the exporter or producer may file a petition under this section, provided that the exporter or producer was not given notice of the pending protest pursuant to § 181.114 of this part. If the importer filed a protest on which final administrative action has not been taken and notice of the pending protest was not provided to the exporter or producer under § 181.114 of this part, a petition filed under this section shall be treated by the port director as an intervention under § 181.115 of this part.

(b) *Form and filing of petition.* A petition under this section shall be typewritten, in English, and shall be filed, in triplicate, with the port director who issued the adverse marking decision. The petition under this subpart should be on letterhead paper in the form of a letter, clearly designated as a "Petition for NAFTA Review of Adverse Marking Decision" and shall be signed by the exporter, producer or his authorized agent. The provisions of § 174.3 of this chapter shall apply for purposes of signature by a person other than the principal.

(c) *Content.* The Petition for NAFTA Review of Adverse Marking Decision letter shall contain all the information specified §181.115 of this part, except for the protest number. It shall also include a statement that petitioner was not notified by Customs in writing of a pending protest.

(d) *Review of petition*—(1) *Review by port director.* Within 60 days of the date of receipt of the petition, the port director shall determine if the petition is to be granted or denied, in whole or in part. If, after reviewing the petition, the port director agrees with all of the petitioner's claims and determines that the initial adverse marking decision was not correct, a written notice granting the petition shall be issued to the petitioner. A description of the merchandise, a brief summary of the issue(s) and the port director's findings shall be forwarded to the Director, Tariff Classification Appeals Division, Customs Headquarters, for publication in the Customs Bulletin. If, after reviewing the petition, the port director determines that the initial adverse marking decision was correct in its entirety, a written notice shall be issued to the petitioner advising that the matter has been forwarded to the Director, Tariff Classification Appeals Division, Customs Headquarters, for further review and decision. All relevant background information, including available samples, a description of the adverse marking decision and the reasons for the decision, and the port director's recommendation shall be furnished to Headquarters.

(2) *Review by Headquarters.* Within 120 days of the date the petition and background information are received at Customs Headquarters, the Director, Tariff Classification Appeals Division, shall determine if the petition is to be granted or denied, in whole or in part, and the petitioner shall be notified in writing of the determination. If the petition is granted in whole or in part, a description of the merchandise, a brief summary of the issue(s) and the director's findings will be published in the Customs Bulletin.

(3) *Effect of granting the petition.* The decision on the petition, if contrary to the initial adverse marking decision, will be implemented with respect to

merchandise entered or withdrawn from warehouse for consumption after 30 days from the date on which the notice of determination is published in the Customs Bulletin.

(e) *Pending litigation.* No decision on a petition will be issued under this section with respect to any issue which is pending before the United States Court of International Trade, the United States Court of Appeals for the Federal Circuit, or any court of appeal therefrom. Litigation before any other court will not preclude the issuance of a decision on a petition under this section, provided neither Customs nor any of its officers or agents is named as a party to the action.

(f) *Judicial review of denial of petition.* Any person whose petition under this section has been denied, in whole or in part, may contest the denial by filing a civil action in the United States Court of International Trade within 30 days after the date of mailing of the notice of denial.

Subpart K—Confidentiality of Business Information

§ 181.121 Maintenance of confidentiality.

The port director or other Customs officer who has possession of confidential business information collected pursuant to this part shall, in accordance with part 103 of this chapter, maintain its confidentiality and protect it from any disclosure that could prejudice the competitive position of the persons providing the information.

§ 181.122 Disclosure to government authorities.

Nothing in §181.121 of this part shall preclude the disclosure of confidential business information to governmental authorities in the United States responsible for the administration and enforcement of determinations of origin and of customs and revenue matters.

Subpart L—Rules of Origin

§ 181.131 Rules of origin.

(a) The regulations effective October 1, 1995, implementing the rules of origin provisions of General Note 12,